



October 28, 2019

The Honorable Paul Tonko
Chairman
Subcommittee on the Environment and Climate Change
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable John Shimkus
Ranking Member
Subcommittee on the Environment and Climate Change
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Tonko and Ranking Member Shimkus,

Re: Statement for the Record Regarding Subcommittee on the Environment and Climate Change Hearing "Protecting the RFS: The Trump Administration's Abuse of Secret Waivers."

On behalf of the 850,000 members of the United Steelworkers (USW), our union submits the following comments to the Subcommittee on the Environment and Climate Change regarding the October 29th hearing on "Protecting the RFS: The Trump Administration's Abuse of Secret Waivers."

While the subject of transparency in the Renewable Fuel Standard (RFS) is important, our union is concerned about the limited scope of this hearing. The failure to address a federally mandated system that is not working as intended and is rife with abuse means stakeholders are left pushing past the margins and wanting more from legislators. As Congress looks to improve effectiveness and efficiency in government, it is vital that this committee and the legislative branch consider the fiscal impact and quality of the jobs they intend to create through fuel and electric vehicle (EV) policy.

United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union

Legislative and Policy Department, 1155 Connecticut Ave., Suite 500, N.W., Washington, D.C. 20036

202-778-4384 • 202-419-1486 (Fax)

www.usw.org

USW
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Introduction

The USW is the largest union in the combustion engine fuel sector. The union represents two thirds of domestic refining capacity and in addition represents ethanol production facilities. Our union also supports innovative bio-fuel production like ArcelorMittal's effort to create biofuels using waste carbon monoxide as a feedstock and microbes, which can be blended for use as a liquid fuel.¹

Our union is looking to the future and the role the RFS will play going forward must be seriously considered and reassessed. The market in fuel is rapidly changing, as vehicles become more fuel efficient and electric vehicle sales grow. This can be seen even today as fuel consumption in the U.S. has declined.²

Changes with fuel demands and in the refining industry, discussed below, requires a longer strategic approach to update the RFS to ensure that whatever product goes into an engine, workers receive just compensation, a safe workplace, and a secure retirement.

Small Refineries Exemptions: A Crude Fix, But a Remedy

The issue of small refinery exemptions (SRE) without context means the committee is left focusing on administration transparency, but not the roller coaster price impacts in fuel policy since the RFS was implemented. Merchant refining experienced significant pressure related to the massive fluctuations in Renewable Identification Number (RIN) prices over the years and is a story that runs significantly deeper than what the committee is considering today. RIN's are a market tradeable compliance mechanism designed to ensure fulfillment of mandated biofuel levels. However, price volatility in RINs creates concern among small to medium sized refineries. These concerns, if left unattended, could lead to job loss in the refining sector, and increased imports of foreign biofuels, which runs counter to the Congressional intent of the RFS.

¹ <https://corporate.arcelormittal.com/news-and-media/our-stories/capturing-and-utilising-waste-carbon-from-steelmaking>

² <https://www.reuters.com/article/us-usa-gasoline-kemp/u-s-gasoline-consumption-stalls-adding-to-oil-producers-problems-john-kemp-idUSKCN1PN1XI>

When the EPA promulgated the rules for the RFS, the agency designated refineries as the obligated party to make sure blending of fuels and biofuels was completed. The obligated party compliance mechanism has several flaws.

Over the past decade, there has been a shift in the refining industry with an increase in merchant refiner production. Unlike the integrated refining companies which can control hydrocarbon processing from extraction to consumer retail sale, merchant refineries are primarily focused on one core function: the refining of crude fuels to bulk sales of final hydrocarbon products like gasoline. Since the enactment of the RFS, integrated oil companies have continued to sell refining assets to merchant refiners meaning much of the blending infrastructure is outside these obligated parties. In 2016, it was reported that over a million barrels per day of U.S. refining capacity had been sold to merchant refiners.

Since merchant refineries of all sizes were unable to control blending and had to buy RINs on the open market, significant compliance costs began to impact facilities across the country and threaten good paying union jobs. In 2018, the now closed Philadelphia Energy Solutions (PES) refinery filed for bankruptcy. They cited compliance costs and RIN prices as a major factor in the bankruptcy proceedings with filings showing the refinery spending \$75-\$85 million per year on RINs.³ In 2018, Valero reported \$500 million in RFS compliance costs alone even with reduced RIN prices.⁴ False RIN generation, hoarding, and political efforts to drive costs down turned a federal compliance mechanism into a broken system that left no party happy.⁵⁶

Since the change in administrations, there has been an increase in SRE waivers granted by the EPA.⁷ The increase of waivers has been the only effective mechanism to keep RIN prices in check, having no other regulatory or legislative intervention for RIN reform.

³ <https://stateimpact.npr.org/pennsylvania/2018/03/13/epa-deal-gives-pes-in-bankruptcy-some-relief-from-renewable-fuel-credits/>

⁴ <https://www.forbes.com/sites/rpapier/2019/08/22/the-ethanol-industrys-flaw-is-its-entitlement-mentality/?source=bloomberg#a288d471d9ad>

⁵ <https://it.reuters.com/article/newsOne/idUKKBN17X2HX>

⁶ <https://arstechnica.com/tech-policy/2018/08/ohio-man-is-latest-to-be-sentenced-for-millions-in-biofuel-credit-fraud/>

⁷ <https://www.epa.gov/fuels-registration-reporting-and-compliance-help/rfs-small-refinery-exemptions>

SRE's and Biofuel Blending

The blend rates for ethanol in the gasoline supply have increased over time, even after the SRE's were granted. For example, in February 2019, the ethanol blend rate (i.e. the percentage of the overall fuel supply containing ethanol) was 10.53%, which is the highest it has been in the last 12 months. This is after SRE's were granted. Economist Scott Irwin from the University of Illinois concluded in several different blog posts that there is NO demand destruction from SREs, and that in spite of SREs, the blend rate has been "well within normal statistical variation."⁸

The failure to grant SREs would not only drive up RIN prices and put the viability of some merchant refiners into question but would also increase the nation's dependence on foreign biofuels, particularly on the East Coast. From 2016-2018 the U.S. imported over half a billion gallons of foreign biodiesel each year in order to meet the mandate.⁹

A Complete Overhaul of RFS is Necessary

Without looking at the whole RFS puzzle, the committee will continue down a false narrative of corn versus oil and not look at what is the best policy for workers and consumers.

Additional federal research must go into what impacts federal ethanol requirements have on changing land usage, greenhouse gas, water usage, and climate change. According to the National Wildlife Federation, land use changes driven by the RFS contributed about 27.1 million metric tons of carbon dioxide per year into the atmosphere — the equivalent of more than seven coal-fired power plants.¹⁰

Federally required blending rates must be tightly controlled to better account for changing fuel consumption requirements as electric vehicle and fuel efficiency standards reduce overall fuel demand.

⁸ <http://www.fuelingusjobs.com/library/public/Study/Demand-Destruction-Article.pdf>

⁹ <https://www.eia.gov/biofuels/biodiesel/production/>

¹⁰ https://www.nwf.org/Home/Latest-News/Press-Releases/2019/03-07-19-Biofuels-Environmental-Harm?utm_medium=social&utm_campaign=RFS%20research&utm_content=press%20release%2003072019&utm_source=Twitter

Pay and benefits for workers who supply our country's fuel should be considered by establishing federal prevailing wage rates in the biofuel industry, which are comparable to domestic refining wage rates. Additional health and safety monitoring requirements must be included in policy changes to the RFS to ensure process safety management (PSM) rules are followed in the ethanol industry and implemented in a fashion that provides worker involvement and participation. Similar to recent California PSM standards in refining, this will give workers clear authority to participate in process safety decision-making and to call attention to problems that will ensure safer facilities.¹¹

With growing inequality across this country, Congress cannot let any federal mandate, tax incentive, or federal expenditure remain free from labor conditions to ensure workers are fairly compensated for the products they produce to move America. We look forward to working with the committee to ensure that RFS policy actually works for all workers and not just large vested corporate interests.

¹¹ <https://www.bluegreenalliance.org/the-latest/after-five-year-effort-california-adopts-the-nations-strongest-refinery-safety-regulations/>